

§ 1626.5 Verification of citizenship and eligible alien status.

(a) A citizen seeking representation shall attest in writing in a form approved by the Corporation to the fact of his or her United States citizenship. Verification of citizenship shall not be required unless a recipient has reason to doubt that a person is a United States citizen.

(1) If verification is required, a recipient shall accept the original or a certified copy of any of the following documents as evidence of citizenship:

- (i) United States passport;
- (ii) Birth certificate;
- (iii) Naturalization certificate;
- (iv) United States Citizenship Identification Card (INS Form 1-197); and
- (v) Baptismal certificate showing place of birth within the United States and date of baptism within two months after birth.

(2) If a person is unable to produce any of the documents in paragraph (a)(1) of this section, he or she may submit a notarized statement signed by a third party, who shall not be an employee of the recipient and who can produce proof of that party's own United States citizenship, that the person seeking legal assistance is a United States citizen.

(b) An alien seeking representation shall submit appropriate documents to verify eligibility. A recipient shall accept originals of any of the following documents as proof of eligibility:

(1) An alien in the category specified in § 1626.4(a) shall present an Alien Registration Receipt Card (INS Forms 1-151, or 1-551), a Temporary Evidence of Lawful Admission for Permanent Residence form (INS Form 1-181B), or a valid passport and immigration visa.

(2) An alien in the category specified in § 1626.4(b) shall present the following documents:

(i) The fee receipt issued to the alien by the Immigration and Naturalization Service (INS) at the time that the Application for Status as Permanent Resident (INS Form 1-485) was filed; a copy of the Application for Status as Permanent Resident accompanied by a notarized statement signed by the alien that such form was filed with INS; a copy of the Application for Immigrant Visa & Alien Registration (De-

partment of State Form FS-510) accompanied by a notarized statement signed by the alien that such form was filed with a consulate office; or a copy of the Application for Suspension of Deportation (INS Form 1-256A) accompanied by a notarized statement signed by the alien that such form was filed with INS; and

(ii) A copy of the alien's marriage certificate accompanied by proof of the spouse's U.S. citizenship; a copy of the United States birth certificate, baptismal certificate, adoption decree or other documents demonstrating that the alien is the parent of a United States citizen under the age of 21; a copy of the alien's birth certificate, baptismal certificate, adoption decree, or other documents demonstrating that the alien is a child under the age of 21, accompanied by proof that the alien's parent is a United States citizen; or in lieu of the above, a copy of the Petition to Classify Status of Alien Relative for Issuance of Immigrant Visa (INS Form 1-130) containing information that demonstrates that the alien is related to such a United States citizen spouse, parent, or child, accompanied by a notarized statement that such form was filed with INS.

(3) An alien in the category specified in § 1626.4(c) shall present an Arrival-Departure Record (INS Form 1-94) marked "section 207" or "Refugee" (if claiming refugee status), "section 208" or "Asylum" (if claiming asylum status), or "section 203(a)(7)" or "conditional entry" (if claiming conditional entrant status).

(4) An alien in the category specified in § 1626.4(d) shall present an Arrival-Departure Record (INS Form 1-94) marked "section 243(h)," or a court order or letter signed by an immigration judge stating that the Attorney General is withholding deportation of the alien.

(5) A recipient may also accept any other authoritative document issued by INS that provides evidence of alien status for the categories of aliens listed in paragraph (b) of this section.

(c) A Temporary Resident Card (INS Form 1-688) shall be considered evidence of eligible alien status in the case of a Special Agricultural Worker. See § 1626.7(b). This form shall not be

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considered evidence of eligible alien status in the case of an alien who has obtained an adjustment in status under the General Amnesty provisions of Immigration Reform and Control Act (IRCA), 8 U.S.C. 1255a, unless the alien can qualify independently under another exception to the general restriction as stated in §1624.4(a), (b), (c) or (d).

(d) A recipient shall upon request furnish each person seeking legal assistance with a list of the documents described in this section. Persons applying for legal assistance are responsible for producing the appropriate documents to verify eligibility.

(e) In an emergency, legal services may be provided prior to compliance with all the requirements of §1626.5(a) through (d) if:

(1) It is not feasible for a citizen or an alien to come to the recipient's office or otherwise physically transmit documentation to the recipient before commencement of representation, such required information as can be obtained orally shall be recorded by the recipient and written documentation shall be submitted as soon as possible;

(2) An alien is physically present, but cannot produce required documentation, he or she shall make a written statement identifying the category listed in §1626.4 under which he or she claims eligibility and the documents that will be produced to verify that status; this documentation shall be submitted as soon as possible;

(3) The recipient adheres strictly to the same criteria for emergency assistance used in their general determination of priorities and uses the procedures of §1626.5(e) only in cases meeting these criteria; and

(4) The recipient informs clients accepted under these procedures that only limited emergency legal assistance may be provided them without satisfactory documentation and that failure or inability to produce satisfactory documentation will compel the recipient to discontinue representation consistent with the recipient's professional responsibilities as soon as the emergency no longer exists.

(f) No written verification is required when the only service provided for an eligible alien or citizen is brief advice

and consultation by telephone. The term "brief advice" is limited to advice provided by telephone and does not include a continuous representation of a client.

§ 1626.6 Change in circumstances.

If, to the knowledge of the recipient, a client who was an eligible alien becomes ineligible through a change in circumstances, a recipient must discontinue representation of the client consistent with the applicable rules of professional responsibility.

§ 1626.7 Special eligibility questions.

(a) The alien restriction in §1626.3 is not applicable to the following:

(1) Citizens of the following Pacific Island entities:

(i) Commonwealth of the Northern Marinas;

(ii) Republic of Palau;

(iii) Federated States of Micronesia;

(iv) Republic of the Marshall Islands;

(2) All Canadian-born American Indians at least 50% Indian by blood;

(3) Members of the Texas Band of Kickapoo.

(b) An alien who qualified as a special agricultural worker and whose status is adjusted to that of temporary resident alien under the provisions of IRCA is considered a permanent resident alien for all purposes except immigration under the provisions of section 302 of Pub. L. 99-603, 100 Stat. 3422, 8 U.S.C. 1160(g). Since the status of these aliens is that of permanent resident alien under section 1101(a)(20) of Title 8, these workers may be provided legal assistance. These workers are ineligible for legal assistance in order to obtain the adjustment of status of temporary resident under IRCA, but are eligible for legal assistance after the application for adjustment of status to that of temporary resident has been filed, as long as such application has not been rejected and the applicant is eligible for services under §1626.4(b).

§ 1626.8 H-2 Agricultural workers.

(a) Nonimmigrant agricultural workers admitted under the provisions of 8 U.S.C. 1101(a)(15)(h)(ii), commonly called H-2 workers, are considered to be aliens described in 8 U.S.C.